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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,951	10/21/2004	Detlef Busch	05581-00131-US	8785

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EXAMINER

MCDOWELL, SUZANNE E

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/511,951

Applicant(s)

BUSCH ET AL.

Examiner

Suzanne E. McDowell

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-26 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 10-26 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/21/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claim 11 is objected to because of the following informalities: "orinted" instead of "oriented".

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 10-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davidson et al. (US Patent 6,815,048) in view of Oles et al. (US Patent 4,769,205). Davidson et al. teaches the label as claimed, including stretching a web containing a beta-form (column 2, lines 20-24) of a polypropylene-based homopolymer, or a random or block copolymer or terpolymer (column 3, lines 60-62) and containing 0.0001 to 5 weight % of a nucleating agent such as a dicarboxamide (column 4, lines 10-17), whereby the stretching forms a film with microvoids therein. Davidson et al. further teaches that the voids are induced by the change of the beta-form into the alpha-form of polypropylene during stretching (column 3, lines 16-20).

Davidson et al. does not specifically teach the in-mold labeling steps as claimed. Oles et al. teaches a method of in-mold labeling by placing a pair of labels (84) in mold recesses (24), closing the molds (20 and 22) about a parison (106), lowering the blow head (46) to engage the upper end of the parison and to flow blow air into the parison to expand it, during which expansion the labels are bonded

to the sides of the resultant container (column 5, lines 3-10). It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the method taught by Oles et al. to further define the method of in-mold labeling taught by Davidson et al. (column 1, lines 41-48) in order to expand upon the labeling method. The motivation to combine the teachings of Davidson et al. and Oles et al. is because both are in the same field of endeavor and solve the same problem, that of in-mold labeling.

Regarding claims 12-14, Davidson et al. does not specifically teach the film density or porosity. Regarding claims 25-26, Davidson et al. does not specifically teach that the labeled container does not have an orange peel. Davidson et al. does teach using the same polypropylenes and nucleating agents in the same ratios as those of the instant claims, which would of necessity result in a film with the claimed characteristics, such as density and porosity and lack of orange peel problems.

Regarding claims 23 and 24, Davidson et al. teaches using a stenter process at 128°C or 144°C, cooling the film and winding it onto reels (column 6, lines 53-57), or a stenter process at 153°C or 135°C, cooling the film and winding it onto reels (column 7, lines 11-16). Temperatures cooler than 128°C are as claimed in claims 23 and 24.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Moseley III (US Patent 6,228,316).
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne E. McDowell whose telephone number is (571) 272-1205. The examiner can normally be reached on MWF 8:00am-6:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'S. McDowell', with a large, stylized 'S' and 'M'.

Suzanne E. McDowell
Primary Examiner
Art Unit 1732